

## REMARKS

Reconsideration of the present application is respectfully requested. Claims 8-30 were pending. Claims 8, 17-18, 23, and 28-30 have been amended. No claims have been canceled. New claims 31-32 have been added. Claims 8-32 are currently pending.

### 35 U.S.C. § 112 Rejections

Claim 30 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Although Applicants do not necessarily agree with the Examiner's reasoning behind the rejection, Applicants have amended claim 30 to remove the language at issue solely for the purpose of advancing prosecution. Withdrawal of the rejection is respectfully requested.

### 35 U.S.C. § 103(a) Rejections

Claims 8-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Modiano et al. ("Design and analysis of an asynchronous WDM local area network using a master/slave scheduler", hereinafter "Modiano"). Applicants respectfully traverse the rejections.

Claim 8 as amended sets forth:

polling the plurality of nodes to obtain feedback from the plurality of nodes,  
said polling comprising

*sending a second control packet* to each of the plurality of nodes  
over the control channel, the second control packet specifying the scheduler as

the destination node, wherein *each of the plurality of nodes sends feedback to the scheduler* over the data channel in response to the second control packet.  
(Claim 8 as amended; emphasis added)

In contrast, Modiano fails to teach at least the above limitation of claim 8. As explicitly disclosed in Modiano, the optical terminals (OTs), which were analogized to be the nodes as claimed, send their requests to the scheduler to reserve a time and a wavelength for transmission (Modiano, p. 901, second col., last para.). Reservations are made using a **random** access protocol to access the control channel. Specifically, the OTs send reservation requests repeatedly and update their requests after waiting a random delay (Modiano, p. 902, second col., section B, first para.). Modiano does not disclose, suggest, or imply polling the OTs by sending a control packet over the control channel to the OTs specifying the scheduler as the destination node nor the OTs sending feedback to the scheduler over the data channel in response to the control packet.

Further, the other cited reference, Gehlhaar (US 5,892,916) fails to teach the above limitation as well. According to Gehlhaar, a network manager *monitors* the usage and traffic levels of the network element and *retrieves* information pertaining to the traffic loading of the particular network elements. The network manager downloads additional configuration information to the network elements to reconfigure the network elements based on the traffic loading. (Gehlhaar, col. 2, ln. 38-57) As such, the network manager in Gehlhaar does not poll the network elements by *sending a control packet to each of the network element specifying a scheduler as the destination*, wherein the

network elements *send* feedback to the scheduler over the data channel in response to the control packet.

Moreover, Ganz discloses three kinds of possible traffic conflicts in a WDM switching system (Ganz, p.1828). Weik discloses a definition of time slot (Weik, p. 1037). Neither Ganz nor Weik, alone or in combination, discloses polling the nodes to obtain feedback.

Since none of Modiano, Gehlhaar, Ganz, nor Weik, alone or in combination, teaches the limitation of claim 8 set forth above, claim 8 is patentable over Modiano in view of Gehlhaar, Ganz, and Weik. Withdrawal of the rejection is respectfully requested.

In addition to, or as an alternative to, the above reason, claim 8 as amended is patentable over Modiano in view of Gehlhaar, Ganz, and Weik because one of ordinary skill in the art would not have been motivated to combine the references as suggested in the Office Action as Gehlhaar teaches away from the invention. Gehlhaar explicitly states that “[I]t is ***not practical*** for the network manager to spend time establishing synchronous connections with each of the network elements that it wishes to communicate with” (Gehlhaar, col. 2, ln. 60-62). Therefore, in view of the above statement in Gehlhaar, one of ordinary skill in the art would not have been motivated to modify Modiano by adding the feature of polling the OTs by sending a control packet over the control channel to the OTs specifying the scheduler as the destination node nor the OTs sending feedback to the scheduler over the data channel in response to the control packet. Therefore, claim 8 as amended is patentable over Modiano in view of Gehlhaar, Ganz, and Weik.

For reasons similar to those discussed above with respect to claim 8, claims 23 and 28 are also patentable over Modiano. Withdrawal of the rejection is respectfully requested.

Claims 9-22, 24-27, and 29-30 depend, directly or indirectly, from claims 8, 23, and 28, respectively. Thus, having additional limitations, claims 9-22, 24-27, and 29-30 are patentable over Modiano. Withdrawal of the rejection is respectfully requested.

#### New Claims 31-32

New claim 31 recites:

using the scheduler to schedule and provision for feedback from the plurality of nodes to the scheduler.

(New claim 31)

In contrast, the cited references, alone or in combination, fail to disclose at least the above limitation. As explained above, the optical terminals (OTs) in Modiano send their requests to the scheduler to reserve a time and a wavelength for transmission (Modiano, p. 901, second col., last para.). Reservations are made using a random access protocol to access the control channel. Specifically, the OTs send reservation requests repeatedly and update their requests after waiting a random delay (Modiano, p. 902, second col., section B, first para.). Modiano does not disclose, suggest, or imply polling the OTs by sending a control packet over the control channel to the OTs specifying the scheduler as the destination node nor the OTs sending feedback to the scheduler over the data channel in response to the control packet.

The other reference, Gehlhaar also fails to disclose the above limitation.

According to Gehlhaar, a network manager *monitors* the usage and traffic levels of the network element and *retrieves* information pertaining to the traffic loading of the particular network elements. The network manager downloads additional configuration information to the network elements to reconfigure the network elements based on the traffic loading. (Gehlhaar, col. 2, ln. 38-57) As such, the network manager in Gehlhaar does not *poll* the network elements by sending a control packet to each of the network element specifying the network manager as the destination, wherein the network elements *send* feedback to the network manager over the data channel in response to the control packet.

Moreover, neither Ganz nor Weik, alone or in combination, discloses polling the nodes to obtain feedback for reasons discussed above with respect to claim 8.

Since none of Modiano, Gehlhaar, Ganz, nor Weik, alone or in combination, teaches the limitation of claim 8 set forth above, claim 8 is patentable over Modiano in view of Gehlhaar, Ganz, and Weik. Allowance of claim 31 is earnestly solicited.

Claim 32 depends directly from claim 31, and thus, is allowable for the reason discussed above with respect to claim 31. Allowance is earnestly solicited.

Conclusion

For at least the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly solicited.

If the Examiner perceives any further obstacle to allowing the present application, he is invited to contact the undersigned at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: \_\_\_\_\_

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Chui-kiu Teresa Wong  
Reg. No. 48,042

Customer No. 48102  
12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300